

PLANNING COMMISSION MINUTES OF SEPTEMBER 26, 2005

2005-0556 – 430 Toyama LLC [Appellant] **Ivy Chi Trustee** [Owner]: Reconsideration of a decision by the Planning Commission based on revised landscaping data for related proposals on a 32,000 square-foot site located at **1038 Morse Avenue** (near Toyama Dr) as the second phase of a related development in an MS/ITR/R3/PD (Industrial & Service/ Industrial to Residential/Medium Density Residential/Planned Development) Zoning District (Negative Declaration) (APN: 110-14-085) JM;

- Special Development Permit to develop 17 townhomes, and
- Tentative Map to subdivide one lot into 17 lots and one common lot.

Jamie McLeod, Associate Planner, presented the staff report. She distributed a copy of the Planning Commission minutes from July 25, 2005, when this project was previously considered, and a letter from the applicant. She said the applicant has requested reconsideration of landscaping and useable open space which impacted the previous decision approving 16 units rather than the requested 17 units. The applicant is planning to include a pergola in lieu of a community room. Staff is recommending approval of 16 units with the recommended conditions. Reducing the project by one unit would bring the project in compliance with the useable open space requirement. It would also allow for a modification of the design to create a greater distance between buildings in some cases, but would not result in the design meeting all of the requirements.

Comm. Klein asked for further explanation about the bicycle parking deviation. Ms. McLeod said in cases like this with closed garages, that typically the garages account for the enclosed bicycle spaces. Since the enclosed bicycle space is addressed, the focus has been on the bike racks. She explained the requirements for bike racks as required by the Valley Transportation Authority (VTA) and confirmed that each rack provides space for 4 to 8 bicycles. Comm. Klein confirmed with staff that the bike parking plan has changed from what is shown in the report, Attachment D, page 9 of 16, and that the bike rack parking is now proposed to be located across the street by the trash enclosure.

Comm. Simons commented that, in the past, foam trim accents have been disallowed, but that staff seems to be allowing them again. He referred to Condition of Approval (COA) A.10.a where foam accents and trim elements are “strongly discouraged”, but not prohibited, and asked staff to comment. **Trudi Ryan**, Planning Officer, said that COA A.10.a does not permit foam accents or trim elements on front facades and discourages them elsewhere. She said that foam may be appropriate for areas that have complicated design, detail and low use, but is inappropriate for a high-use area. She said, as the architectural designs progress, there may be situations that staff would allow the use of foam.

Comm. Simons referred to wording on page nine of the report, "The applicant should consider incorporating a tasteful tile or other small accent detail into the wall for increased interest where landscaping does not provide adequate coverage," and asked if it would be appropriate to include the wording in the COAs. Ms. Ryan said yes. He asked if COA C.1.e. could be modified to include the wording, "with consideration of native trees." Staff said yes. He commented that he enjoyed reading the nice discussion about a requirement for the decorative paving plan. He asked if the decorative paving plan was brought forward by the developer or staff as he was glad to see it in the report. Ms. Ryan said that the decorative paving plan was required on the first phase of this project and with other cases in the past, but with this case the plan is more detailed.

Comm. Babcock commented that she was a dissenting Commissioner at the July 25, 2005 consideration of this item, due to the conflicting data between the staff report and applicant information. She asked staff to comment on the applicant's statement about counting the porches towards the useable open space requirement. Ms. McLeod confirmed that if you count porches towards the open space that the project is over the requirement and if you do not count the porches then the project is a little under. The open space deviation requested on this project is not considered extreme. Ms. Ryan said that the code distinguishes different kinds of dimensions for useable open space and that structured areas such as porches, patios and decks, have a different minimum dimension than if it is not part of the building. Comm. Babcock asked if the open space that is considered met, is this for 16 or 17 units. Ms. McLeod said it is for 17 units. Comm. Babcock asked why staff is recommending the reduction of the units down to 16. Ms. Ryan said that the reduction is based on the Planning Commission's previous action and concerns about distance between the buildings. Ms. McLeod mentioned an example of how the distance between buildings could be a privacy concern.

Comm. Moylan asked staff for clarification on the distance between buildings issue. Comm. Moylan discussed with staff the map and the four areas where the distance requirement of 23 feet is not met. Comm. Moylan asked, what the reduction of one unit actually provides as far as the distance between buildings and which unit is staff suggesting be removed. Ms. Ryan said a unit could be removed along the Toyama frontage, possibly Building 16, and that the removal of a unit would provide about 24 feet. This additional space would result in two of the four areas approaching the requirement. Ms. Ryan said if reducing the units is no longer an issue then the Commission could decide to approve the 17 units. Ms. McLeod added that the applicant also suggested changing configurations which may impact some window concerns.

Comm. Klein asked staff what is between Building 15 and Building 2, which is one of the narrow areas. Ms. McLeod said this area is currently a grassy or landscaped area where staff has recommended a walkway be included.

Chair Hungerford opened the public hearing,

Dave Gibbons, manager and property owner, referred to a letter provided, that discusses the applicant's position regarding the porches. He expressed his concern about COA A.14, the reduction of one unit and said that he thinks the design is adequate without the removal of the unit. He said the privacy issue is mitigated by the landscaping and though some of the windows could be eliminated, that the windows are preferable. He addressed COA A.23 and commented that the third pathway is unnecessary. He commented on COA A.24, regarding the windows facing each other on narrow elevations. He said it is really important to keep the 17th unit and he does not see a compelling reason to remove it. He concluded saying that he thinks they have done a good job, that this project, as designed, meets all criteria of Phase 1 of the project and all the guidelines except the one minor item and that he hopes the Planning Commission will approve the project as proposed.

Chair Hungerford closed the public hearing.

Comm. Moylan referred to the letter from applicant regarding distance between buildings and cites neighboring projects that may have distance between buildings deviations from the requirement. He asked staff if the letter was accurate about the neighboring projects. Ms. Ryan said that this concern was not expressed on the previous application. Ms. McLeod referred to two prior projects cited where one was approved with distance between building deviations and another was approved, but did not actually have deviations. She requested the wording "Phase II" be removed from COA A.20 as the condition applies to the project as a whole.

Vice Chair Fussell moved to adopt the Negative Declaration and approve the Special Development Permit and Tentative Map with attached conditions. Chair Hungerford seconded.

Comm. Simons offered a friendly amendment to add a Condition of Approval (COA) 10.E that "The applicant should consider incorporating a tasteful tile or other small accent detail into the wall for increased interest where landscaping does not provide adequate coverage." This was acceptable to the maker of the motion and seconder. Comm. Simons offered a friendly amendment to add the wording to COA C.1.e, "with consideration of native trees." This was acceptable to the maker of the motion and the seconder.

Comm. Babcock asked Vice Chair Fussell for clarification regarding whether the motion is for 16 units or 17 units. Vice Chair Fussell said the motion is for 17 units. Comm. Babcock confirmed with Ms. Ryan that references within the COAs regarding the number of units will all be changed to read "17 units." Comm. Babcock asked to eliminate the wording "Phase II" in COA A.20, so

that the COA reads “Two (2) of the townhomes will be handicap accessible per the requirements of California State Senate Bill SB 1025,” based on staff’s recommendation. Comm. Babcock asked to eliminate COA A.23 that reads, “Provide accessible walkways along the interior of the Phase II project, along the southern boundary of units 6, 15 and 18.” These changes were acceptable by the maker of the motion and the seconder.

Vice Chair Fussell said he likes that there will be additional home-ownership opportunities to our community.

Final Action:

Vice Chair Fussell made a motion on item 2005-0556 to approve the Special Development Permit and Tentative Map for 17 units with Conditions as recommended by staff with modifications: to add a Condition of Approval (COA) 10.E that “The applicant should consider incorporating a tasteful tile or other small accent detail into the wall for increased interest where landscaping does not provide adequate coverage”; to add the wording to COA C.1.e, “with consideration of native trees”; to eliminate the wording “Phase II” in COA A.20, so that the COA reads “Two (2) of the townhomes will be handicap accessible per the requirements of California State Senate Bill SB 1025”; to eliminate COA A.23 that reads, “Provide accessible walkways along the interior of the Phase II project, along the southern boundary of units 6, 15 and 18.” Chair Hungerford seconded.

Motion carried unanimously, 7-0.

This item is appealable to the City Council no later than October 11, 2005.